

Suite 800
505 Montgomery Street
San Francisco, CA 94111-6533

Duffy Carolan
(415) 276-6585 tel
(415) 276-6599 fax

duffycarolan@dwt.com

February 13, 2013

The Honorable Phyllis J. Hamilton
U.S. District Court
Oakland Courthouse
Courtroom 3, 3rd Floor
1301 Clay Street
Oakland, CA 94612

Re: Theresa Cameranesi and Judith Liteky v. U.S. Dept. of Defense, et al.
Case No. C12-0595 PJH

Dear Judge Hamilton:

Plaintiffs write following today's oral argument on the parties' cross-motions for summary judgment to clarify two points raised by the Court. One, Plaintiffs do seek and the relief sought in the Complaint does include a request for an order enjoining DOD and TRADOC from withholding in the future names and unit information of SOA/WHINSEC graduates and instructors. Complaint at 12. And two, Plaintiffs' position with respect to the other categories of information sought over which Defendants have asserted no exemption from disclosure (branch, country of origin, courses taught or taken and dates of attendance) is that the Supplemental Declaration of Anastasia Kakel, submitted after Plaintiffs' reply brief, is legally insufficient on its face to establish that TRADOC conducted an adequate search, or any search at all, for this information, and it does not address in any manner what data the Department of Defense maintains. Supp. Kakel Decl., ¶ 1. As such this declaration does not meet the government's burden of proof to show that it does not have responsive data for those years in which the information was not produced. See Liteky Decl., Ex. 6.

Very truly yours,

Davis Wright Tremaine LLP

/s/

Duffy Carolan

cc: Ann Marie Reding, Assistant United States Attorney
DWT 21169589v1 0200366-000001